

**LYNCHBURG CITY COUNCIL**  
**Agenda Item Summary**

MEETING DATE: **January 11, 2005**

AGENDA ITEM NO.: 12

CONSENT:

REGULAR: **X**

CLOSED SESSION:  
(Confidential)

ACTION: **X**

INFORMATION:

**ITEM TITLE: Rezoning – 1400 Lakeside Drive, B-3, Community Business District, and R-3, Medium Density Two-Family Residential District, to B-5C, General Business District (Conditional)**

RECOMMENDATION: Approval of the requested rezoning petition.

SUMMARY: C&G Properties is petitioning to rezone approximately 1.09 acres at 1400 Lakeside Drive from B-3, Community Business District, and R-3, Medium Density Two-Family Residential District, to B-5C, General Business District (Conditional) to allow the operation of a thrift shop and related parking. The Planning Commission recommended approval of the rezoning because:

- Petition agrees with the *Comprehensive Plan* which recommends a Community Commercial land use for this property.
- Petition agrees with the Zoning Ordinance in that a thrift shop is a permitted use in a B-5, General Business District.
- Petition proposes the use of an existing building and parking lot for a thrift shop and parking.

PRIOR ACTION(S):

December 22, 2004: Planning Division recommended approval of the rezoning.  
Planning Commission recommended approval 6-0 (with 1 member absent) of the rezoning, with the following voluntary proffers submitted:

1. The existing fence and gate will be maintained and used to control access to the parking area. The gate will be closed and locked during nonbusiness hours from 8:00 PM to 8:00 AM local time to control access to the area.
2. The owner and tenant will maintain all existing setbacks and improvements on the property to avoid creating any nuisance or infringement on adjacent property owners.
3. The parking area will be used for store operations only and not as a public parking area. A 36" by 48" sign will be conspicuously posted at the gated entrance to read "Store Customer Parking Only – Others Towed at Owner Expense."
4. In the event that a second-hand retail business no longer uses 1400 Lakeside Drive, the permitted uses of the property will be those of a B-3 zone.

FISCAL IMPACT: N/A

CONTACT(S):

Rachel Flynn / 455-3902  
Tom Martin / 455-3909

ATTACHMENT(S):

- Ordinance
- PC Report
- PC Minutes
- Site Plan

REVIEWED BY: lkp

## ORDINANCE

AN ORDINANCE TO CHANGE A B-3, COMMUNITY BUSINESS DISTRICT, AND R-3, MEDIUM DENSITY TWO-FAMILY RESIDENTIAL DISTRICT, TO B-5C, GENERAL BUSINESS DISTRICT (CONDITIONAL).

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG, that in order to promote the public necessity, convenience, general welfare and good zoning practice that Chapter 35.1 of the Code of the City of Lynchburg, 1981, as amended, be and the same is hereby further amended by adding thereto Section 35.1-76.\_\_\_\_, which section shall read as follows:

Section 35.1-76.\_\_\_\_. Change of a certain area from B-3, Community Business District, and R-3, Medium Density Two-Family Residential District, to B-5C, General Business District (Conditional). The area embraced within the following boundaries:

Beginning in a southwest corner of the parcel at an iron pin found, thence N 22° 41' 00" E 130.00 feet to an iron pin found, thence N 67° 19' 00" W 41.08 feet to an iron pin found, thence N 33° 42' 00" E 136.49 feet to an iron pin found in the northwest corner, thence S 52° 18' 00" E 185.37 feet to an iron pin found in the northeast corner, thence S 10° 02' 00" W 184.92 feet to a railroad spike found a the right-of-way with Lakeside Drive, thence running with boundary in a curvilinear alignment N 82° 58' 50" W 180.05 feet to a chord, thence N 67° 19' 00" W 36.20 feet to the point of beginning, encompassing an area of approximately 1.092 acres.

. . . is hereby changed from B-3, Community Business District and R-3, Medium Density Two-Family Residential District, to B-5C, General Business District (Conditional), subject to the conditions setout herein below which were voluntarily proffered in writing by the owner namely C & G Properties, Inc.:

1. The existing fence and gate will be maintained and used to control access to the parking area. The gate will be closed and locked during nonbusiness hours from 8:00 PM to 8:00 AM local time to control access to the area.
2. The owner and tenant will maintain all existing setbacks and improvements on the property to avoid creating any nuisance or infringement on adjacent property owners.
3. The parking area will be used for store operations only and not as a public parking area. A 36" by 48" sign will be conspicuously posted at the gated entrance to read "Store Customer Parking Only – Others Towed at Owner Expense.
4. In the event that a second-hand retail business no longer uses 1400 Lakeside Drive, the permitted uses of the property will be those of a B-3 zone.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

005L

The Department of Community Planning & Development  
City Hall, Lynchburg, VA 24504 434-455-3900

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**To:** Planning Commission  
**From:** Planning Division  
**Date:** December 22, 2004  
**Re:** **REZONING: from B-3, Community Business District, and R-3, Two-Family Residential District, to B-5, General Business District (Conditional) at 1400 Lakeside Drive.**

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**I. PETITIONER**

C & G Properties, Inc. 3230 Old Forest Road, Lynchburg, VA 24501  
**Representative:** Blake Royer, 2306 Bedford Avenue, Lynchburg, VA 24503

**II. LOCATION**

The subject property is a tract of about 1.09 acres located at 1400 Lakeside Drive.  
**Property Owners:** C & G Properties, 3230 Old Forest Road, Lynchburg VA 24501

**III. PURPOSE**

The purpose of this petition is to allow use of the property as a thrift shop with adjacent customer parking. Use of the property for secondhand retail sales requires a B-5, General Business District. The rear portion of the site, now zoned residential, must be rezoned to allow for customer parking.

**IV. SUMMARY**

- Petition agrees with the Comprehensive Plan which recommends a Community Commercial land use for this parcel.
- Petition agrees with the Zoning Ordinance in that a thrift shop is a permitted use in a B-5, General Business District.
- Petition proposes the use of an existing building and parking lot for a thrift shop and parking.

**The Planning Division recommends approval of the rezoning petition.**

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**V. FINDINGS OF FACT**

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends a Community Commercial land use for the subject property. The proposed thrift shop and parking are compatible with this land use designation.
2. **Zoning.** The subject property was annexed into the City in 1926. The general area was zoned residential when the City adopted a zoning ordinance in 1930 (there was no Lakeside Drive at that time). The zoning ordinance adopted in 1960 shows the property in a "Community Commercial" district. The existing zoning: B-3, Community Business District, along Lakeside Drive and R-3, Two-Family Residential District, in the back portion of the site was established in 1978 with the adoption of the current *Zoning Ordinance*.
3. **Proffers.** The petitioner voluntarily submitted the following proffers with the rezoning application:
  - The existing fence and gate will be maintained and used to control access to the parking area. The gate will be closed and locked during nonbusiness hours from 8:00 PM to 8:00 AM local time to control access to the area.
  - The owner and tenant will maintain all existing setbacks and improvements on the property to avoid creating any nuisance or infringement on adjacent property owners.
  - The parking area will be used for store operations only and not as a public parking area. A 36" by 48" sign will be conspicuously posted at the gated entrance to read "Store Customer Parking Only – Others Towed at Owner Expense."
  - In the event that a second-hand retail business no longer uses 1400 Lakeside Drive, the permitted uses of the property will be those of a B-3 zone.

4. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the proposed rezoning.
5. **Surrounding Area.** There have been several items requiring City Council approval in the immediate area:
- 10/28/1980: City Council approved the petition of Lester C. Heyer for a Conditional Use Permit (CUP) to operate a family amusement center at 1405 Lakeside Drive.
  - 9/25/1984: City Council approved the petition of Lynchburg College for a Conditional Use Permit (CUP) for Alumni House at Lynchburg College off Lakeside Drive.
  - 10/09/1984: City Council approved the petition of Richard R. Woody to rezone approximately 1.0 acre from B-3, Community Business District, to B-5, General Business District (Conditional), for a new car dealership at 1311 Lakeside Drive.
  - 4/9/1991: City Council approved the petition of Gethsemane Baptist Church for a Conditional Use Permit (CUP) for new parking, expansion of existing parking and an existing sanctuary at 408, 411 Blue Ridge Street.
  - 8/8/1995: City Council approved the petition of Wilton Burgess to rezone approximately 1.8 acres from I-2, Light Industrial District, to B-5, General Business District (Conditional), to allow construction of a convenience store with parking.
  - 5/13/1997: City Council approved the petition of Gethsemane Baptist Church for a Conditional Use Permit (CUP) for operation of a child care center at 407, 411 Blue Ridge Street.
  - 5/14/2002: City Council approved the petition of Schaefer Oglesby to rezone approximately 0.25 acre from B-3, Community Business District, to B-5, General Business District (Conditional), to allow operation of a new car dealership.
  - 8/13/2002: City Council approved the petition of Witco, Inc., to rezone approximately 0.45 acre from I-1, Light Industrial District, to B-5, General Business District (Conditional), to allow the operation of an automatic car wash facility.
6. **Site Description.** The subject property is bounded to the north by residential uses, to the east and west by commercial uses and vacant property, and to the south by commercial uses across Lakeside Drive.
7. **Proposed Use of Property.** The purpose of the rezoning is to allow operation of a thrift shop selling secondhand merchandise to the general public. The thrift shop will use an existing building. The parking area in the rear of the store will be used for customers and employees only and will be closed when the store is not open.
8. **Traffic and Parking.** The City Traffic Engineer has no comments of concern regarding the subject petition. The proposed use is not expected to generate a significant amount of traffic beyond what was generated by the previous commercial use.
- The Traffic Engineer and Planning Division have considered the possible impacts of the proposed Crosstown Connector on the subject property. As plans are now, the impacts, if any, will be minor. However, the Crosstown Connector is going through design modifications, so minor impacts may result from any changes made after this date.
9. **Storm Water Management.** The new impervious area for the project does not exceed 1,000 square feet; as such, no stormwater management plan is required for the project. A stormwater maintenance agreement will be required of the applicant to ensure long term maintenance of the site's drainage system.
10. **Impact.** The existing property at 1400 Lakeside Drive is bisected by the zoning district boundary line. The front of the parcel is now zoned B-3, Community Commercial, and the existing building is located in this area. The rear of the parcel is zoned R-3, Two-Family Residential, and is the location of the fenced lot proposed for customer parking.

A previous owner of the property obtained a Conditional Use Permit (CUP) from the Board of Zoning Appeals (BZA), approved April 25, 2000. This CUP from the BZA allowed the owner to use the existing building for an automotive body shop in a B-3, Community Business District, and to use the adjacent paved lot for temporary storage of customers' motor vehicles in an R-3, Two-Family Residential District.

Customers' cars were stored on this lot during the time they were being repaired, but customers were not allowed under the terms of the BZA CUP to park there.

Since the parcel will have to be rezoned from B-3 to B-5 to allow operation of a secondhand store (thrift shop), this is an excellent opportunity for the entire parcel to be rezoned to the same district. This rezoning will also allow for customer parking in the lot. The required fifty (50)-foot setback and vegetative buffer can be provided between the commercially zoned parcel and the residentially zoned area behind it.

The area between the back of the parking lot and the residences facing Hood Street is a steep slope with some vegetation on it. Additional landscaping will be provided to help screen the parking lot from the residences. Proffers governing the times of use and the users of the parking lot should mitigate impacts from the proposed thrift shop.

Rezoning this parcel to B-5, General Business District (Conditional), was a concern due to the possible reuse of the structure and parking lot for another retail use if the thrift shop ceases to occupy the premises. To address this concern, the applicant has proffered that any other uses will be those permitted in a B-3, Community Business District.

11. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on November 30, 2004. Comments related to the proposed use were minor in nature and have or will be addressed by the developer prior to final site plan approval.
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## **VI. PLANNING DIVISION RECOMMENDED MOTION**

**Based on the preceding Findings of Fact, the Planning Commission recommends to the City Council approval of the petition of C & G Properties for a rezoning from B-3, Community Business District, and R-3, Two-Family Residential District, to B-5, General Business District (Conditional) at 1400 Lakeside Drive for the use of a thrift shop and parking.**

This matter is respectfully offered for your consideration.

William T. Martin, AICP  
City Planner

pc: Mr. L. Kimball Payne, III, City Manager  
Mr. Walter C. Erwin, City Attorney  
Ms. Rachel O. Flynn, Director of Community Planning & Development  
Mr. Bruce A. McNabb, Director of Public Works  
Mr. R. Douglas Dejarnette, Fire Marshal  
Mr. J. Lee Newland, Director of Engineering  
Mr. Gerry L. Harter, Traffic Engineer  
Mr. Robert Drane, Building Commissioner  
Mr. Robert S. Fowler, Zoning Official  
Mr. Kent White, Environmental Planner  
Ms. Blake Royer, Petitioner/Representative

## **VII. ATTACHMENTS**

1. **Vicinity Zoning Pattern**  
(see attached map)
2. **Vicinity Proposed Land Use**  
(see attached map)
3. **Site Plan**  
(see attached site plans)
4. **Narrative**  
(see attached narrative)

## MINUTES FROM THE DECEMBER 22, 2004 PLANNING COMMISSION MEETING

These minutes have been reviewed by, but not approved by the Planning Commission

Petition of C & G Properties to rezone approximately 1.09 acres at 1400 Lakeside Drive from B-3, Community Business, and R-3, Medium Density Two-Family Residential, to B-5C, General Business (Conditional) to allow the operation of a thrift shop and related parking.

Mr. Martin said the Comprehensive Plan recommended a Community Commercial use for the subject property and encouraged the reuse of existing buildings. He said the voluntarily submitted proffers were adequate. He explained that one of the proffers stated that if the property was no longer used as a thrift shop it would revert back to a B-3 use and not that of a B-5 use. Mr. Martin said the Planning Division recommended approval of the rezoning with the submitted proffers.

Ms. Blake Royer represented the petition. Ms. Royer explained that she was the President of the Board of Directors for the Red Apple Thrift Shop, a non-profit organization than benefited the Lynchburg City Schools. She said over the last five years of being in business, the thrift shop had donated \$135,000 back to the city schools. She explained that they were currently located on Bedford Avenue in a building that was approximately 3,000 square feet. Ms. Royer added that they wanted to move because they were growing and felt that in the next five years the potential at the new location would hopefully quadruple the amount of money they could donate back to the schools. She said the purpose of the rezoning was so they could use the back area of the property as a parking lot, which was currently zoned for residential use. Ms. Royer said the fenced parking lot would be closed during non-business hours.

Commissioner Hamilton asked Ms. Royer if they had spoken to the neighbors near the site.

Ms. Royer said they had not yet spoken to the neighbors, but they could certainly do so. She added that there was a very steep hill separating the parking lot from the neighbors, so all the neighbors would see would be the top of the building. She said if they needed to plant more vegetation to screen the building from the neighbors, they would be willing to do so.

Chair Dahlgren asked if they would lease or purchase the building.

Ms. Royer said they had a three-year lease which was extendible for another three years. She added that they had the right of first refusal should the current owners decide to sell the property.

Chair Dahlgren added that according to the newspaper the thrift shop started taking donations on December 7. He said that seemed a little presumptuous, since at that time the petition had not gone to the Commission nor Council.

Commissioner Worthington asked Ms. Royer if they were going to continue accepting donations until they opened, which the paper stated would be January 4.

Ms. Royer said they were not planning to open on January 4 but sometime after the Council meeting which was on January 11, and added that they would be closed from December 23 until January 4. She explained that it was their understanding that they would still be able to use the front portion of the building for their business even if the parking lot had not been rezoned.

Mr. Martin said they could sell new items only from the building, but not used items until after the Council meeting.

After discussion Commissioner Echols made the following motion, which was seconded by Commissioner Worthington and passed by the following vote:

"That the Planning Commission recommends to the City Council approval of the petition of C & G Properties for a rezoning from B-3, Community Business District, and R-3, Two-Family Residential District, to B-5, General Business District (Conditional) at 1400 Lakeside Drive for the use of a thrift shop and parking."

AYES:	Bacon, Dahlgren, Echols, Flint, Hamilton, Worthington	6
NOES:		0
ABSTENTIONS:		0

**C&G PROPERTIES**

#1400 Lakeside Drive  
Vol. Map # 014-12-011  
Rezoning from B-3 & R-3 to B-5C  
Petitioner: C&G Properties

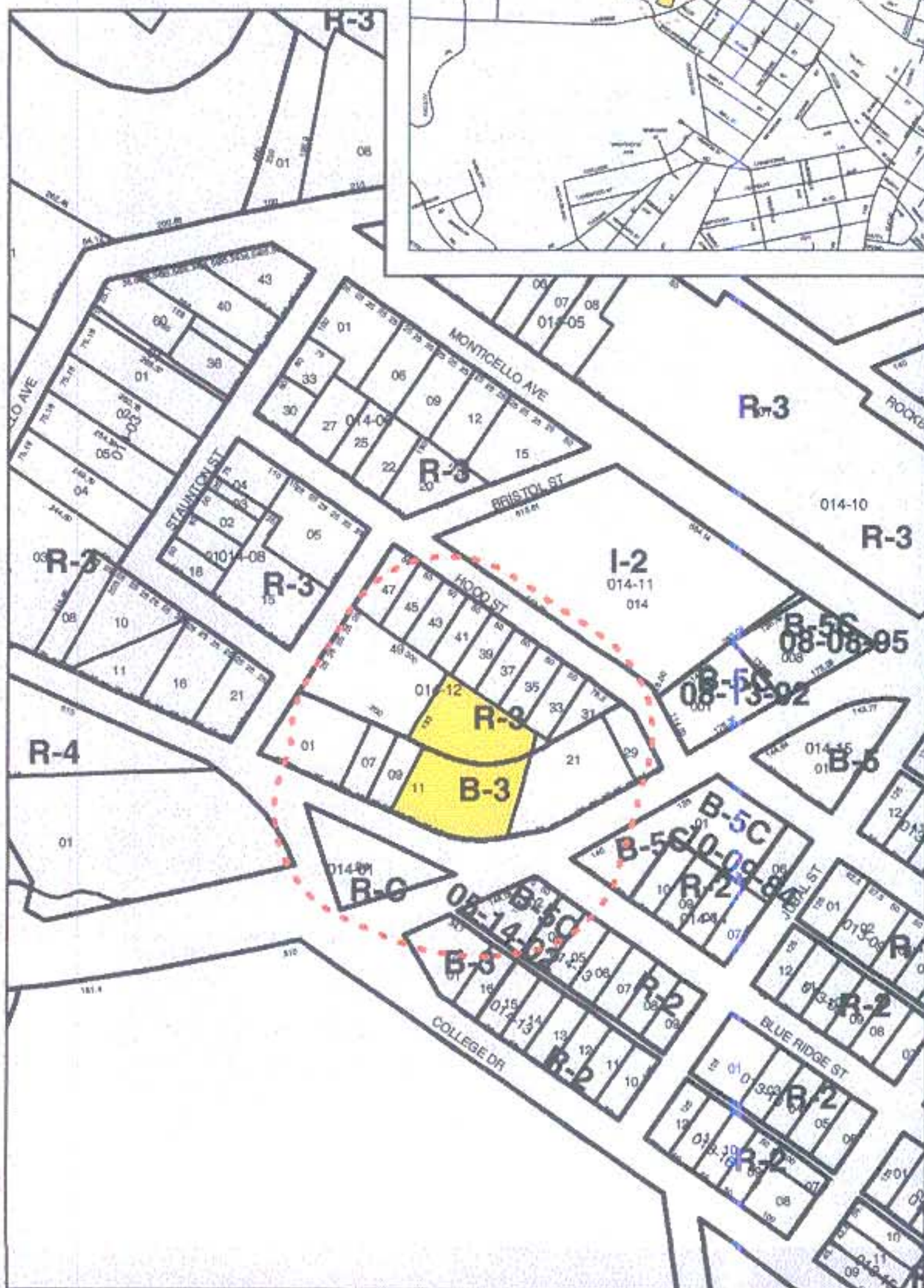
MAP PREPARED BY  
THE DEPARTMENT OF COMMUNITY PLANNING & DEVELOPMENT

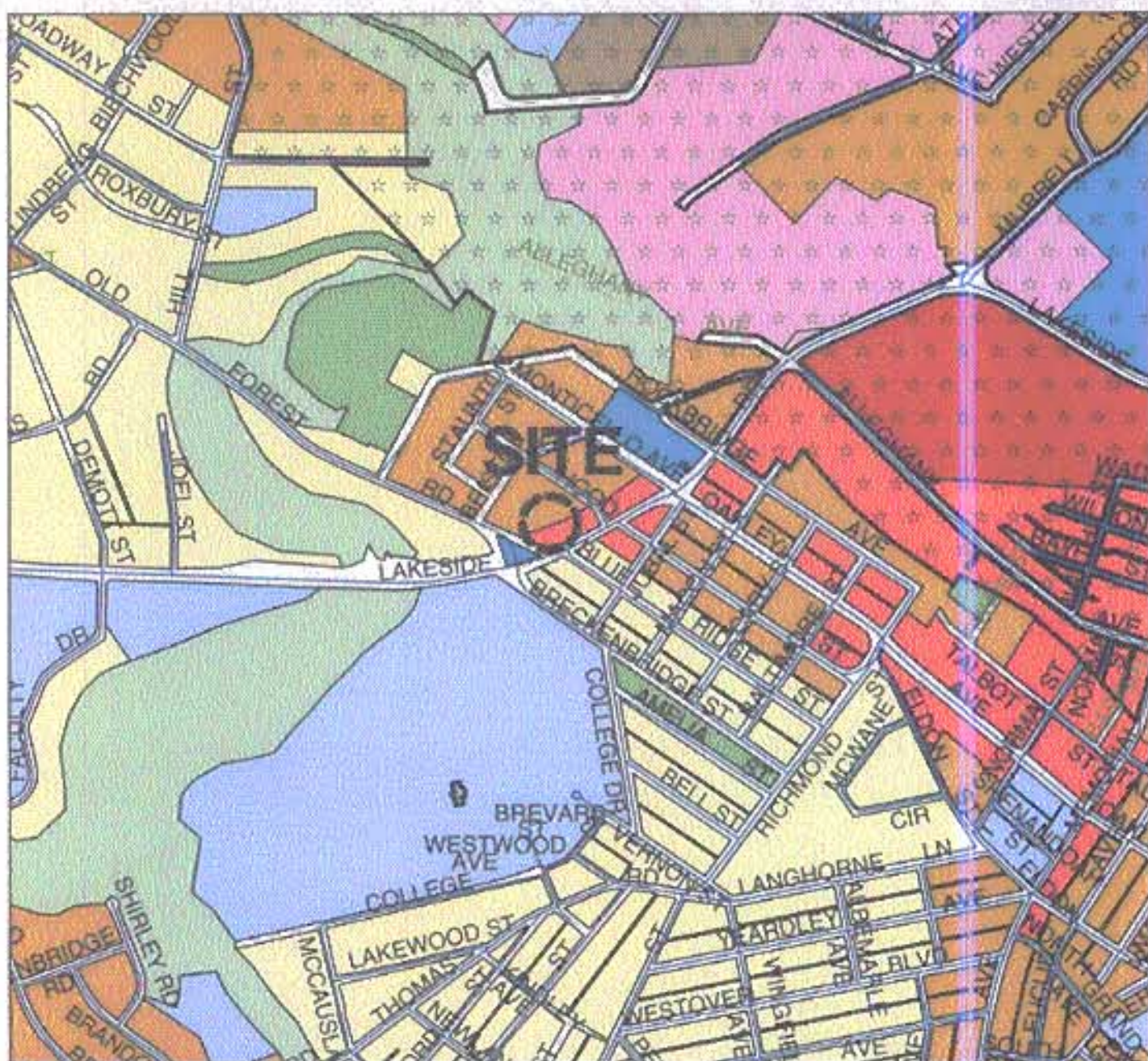


Subject Property



200 ft Radius





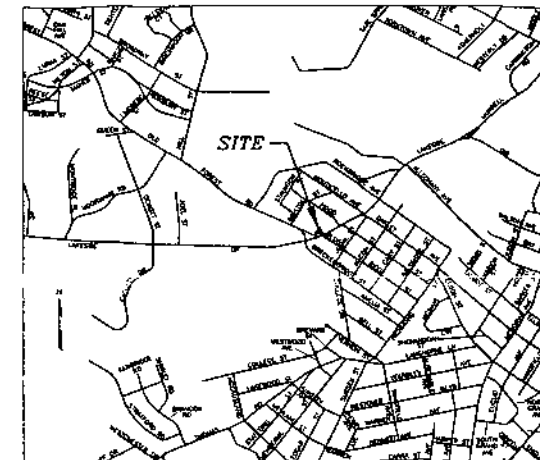
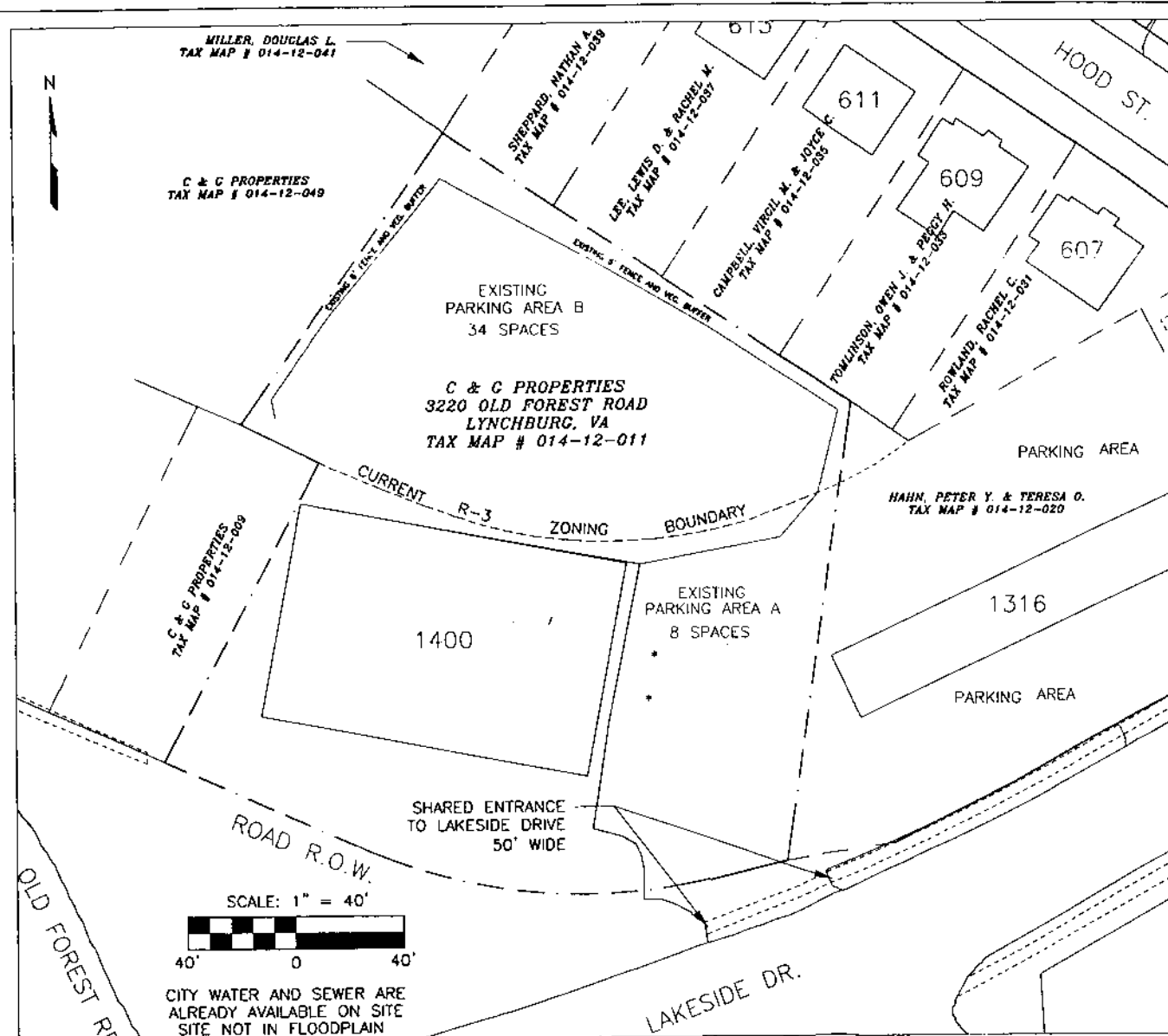
# C&G PROPERTIES

## 1400 LAKESIDE DRIVE

### LAND USE PLAN

- Public Parks
- Resource Conservation
- Public Use
- Institution
- Downtown
- Office
- Employment 1
- Employment 2
- Neighborhood Commercial
- Community Commercial
- Regional Commercial
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Traditional Residential
- Local Historic District
- Mixed Land Use





VICINITY MAP 1" = 2000'

PROPOSED USE IS FOR PTO THRIFT STORE

**PARKING SUMMARY:**

REMAINING 32 SPACES FOR  
CUSTOMER PARKING

EMPLOYEES: 4

VOLUNTEERS: 4

HANDICAP SPACES 2 \* LOCATED AT MAIN ENTRANCE

REFERENCE CONCEPT DRAWING SUBMITTED WITH ORIGINAL  
APPLICATION FOR PROPERTY BOUNDARY INFORMATION.

**C & G PROPERTIES**

CONDITIONAL REZONING

1400 LAKESIDE DRIVE

FUTURE RED APPLE THRIFT STORE

THIS SKETCH DOES NOT REPRESENT A BOUNDARY  
SURVEY IT HAS BEEN PREPARED TO FACILITATE A  
CONDITIONAL ZONING REQUEST TO CHANGE  
PROPERTY ZONING TO B-5(C)

DESIGNED BY: TLF	DRAWN BY: TLF	CHECKED BY: TLF
SCALE: 1" = 20'		PROJECT NO.: DONATED
DATE: 12-07-04		FILE NO.:
		SHEET 1 of 1

Conditional Zoning Petition To Rezone  
0.092 Acres of Existing Parking Lot (R-3)  
0.602 Acres of Retail Space (B-3)  
Located at 1400 Lakeside Drive  
To B-5 (Conditional)

DEC 07 2004

COMMUNITY PLANNING  
DEVELOPMENT

The owner C&G Properties, Inc. has agreed to allow the Lynchburg Parents and Teachers Organization, trading as the Red Apple Thrift store to petition Council for conditional rezoning of the former Green Stamp Building and associated parking area for use as a the PTO Thrift Store as outlined in the enclosed conditional zoning application.

This conditional zoning request relates to rezoning of approximately the existing 1.092 acre parcel located at 1400 Lakeside Drive, as described in Deed Book 759, Page 863, the existing parcel currently being zoned a mixture of R-3, Two Family Residential, and B-3, **Community Business**. The conditional zoning request is to convert the property as described in the below metes and bounds description to **B-5(C)**. The purpose of this petition is to allow the existing private parking lot associated with this building to be used for Thrift Store customer parking. The current zoning only allows for parking of the store employees or vehicles owned by the business. This conditional rezoning will open up parking for store customers, moving them out of the traffic circulation for the adjacent commercial properties. The building parcel rezoning will allow the use of the building for resale/thrift store operations which are not currently permitted under current B-3 zoning restrictions.

The metes and bounds description for the parcel to be rezoned is described as:

"Beginning in a southwest corner of the parcel at an iron pin found, thence North 22° 41' 00" East - 130.00' to an iron pin found, thence North 67° 19' 00" West - 41.08' to an iron pin found, thence North 33° 42' 00" East - 136.49' to an iron pin found in the northwest corner, thence South 52° 18' 00" East - 185.37' to iron pin found in the northeast corner, thence South 10° 02' 00" West 184.92' to a railroad spike found at the right-of-way with Lakeside Drive, thence running with this boundary in a curvilinear alignment North 82° 58' 50" West - 180.05' to a chord, thence North 67° 19' 00" West - 36.20' to the point of beginning, encompassing an area of approximately 1.092 acres."

In order to facilitate this rezoning effort, the owner and tenant offer the following binding proffers regarding use of the existing parking lot:

- 1) The existing fence and gate will be maintained and used to control access to the parking area. The gate will be closed and locked during non-business hours from 8:00 PM to 8:00 AM local time to control access to the area.
- 2) The owner and tenant will maintain all existing setbacks and improvements on the property to avoid creating any nuisance or infringement on adjacent property owners.
- 3) The parking area will be used for store operations only and not as a public parking area. A 36" x 48" sign will be conspicuously posted at gated entrance to read "Store Customer Parking Only - Others Towed at Owner Expense".

- 4) In the event the site is no longer used for a thrift shop or other secondhand retail use, the only permitted uses would be those in a B-3, Community Business, zoning district.**

**End of Petition.**